

**DELTA PROTECTION COMMISSION**

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**Delta Protection Commission  
Thursday, January 26, 1995  
Draft Minutes**

**1. Call to Order/Roll Call.**

Chairman Torlakson called the meeting to order at 6:35 p.m. Commissioners present were: Brodderick, Calone, Curry, Ferreira, Hill, McGowan, Mello, Sekelsky, Simas, Chairman Torlakson, and Yates. Commissioners Potter, McCarty, Nottoli, and Vice Chair Fargo arrived late. Commissioners Freeman, Salmon, and Thomson were absent.

**2. Approval of Minutes of December 15, 1994 Meeting.**

On a motion by Commissioner Mello and a second by Commissioner McGowan, the December 15, 1994 draft minutes were approved by the Commission. Commissioners Hill, Simas and Ferreira abstained.

**3. Chairman's Report.**

a. New Commissioners. Chairman Torlakson noted that the public comments item and Commissioner comments item were accidentally deleted from the agenda and added those items to the agenda for this meeting.

Chairman Torlakson then introduced the new Commissioner representing San Joaquin County: Supervisor Ed Simas. Chairman Torlakson mentioned that Supervisor Barber served for many years on DAPC and on the Commission and stepped down due to pressures of assuming the position of Chairman of the Board. Supervisor Simas was born and raised in San Joaquin County. Supervisor Simas was first elected to the Board in 1988 and is serving his second term. He is a real estate manager, and also spent several years managing the family vineyards. Chairman Torlakson then welcomed Supervisor Simas to the Commission at the same time thanking Supervisor Barber for all his work.

Chairman Torlakson also introduced the new Commissioner representing Sacramento County: Supervisor Don Nottoli. Supervisor Toby Johnson also served for many years on DAPC and on the Commission. Toby Johnson retired from the Sacramento County Board of Supervisors and Don Nottoli has replaced on the Board as well as on the Commission. Chairman Torlakson thanked Toby Johnson and welcomed Don Nottoli to the Commission.

Chairman Torlakson then mentioned that last meeting he noted that Joel Keller won a seat on the BART Board of Directors and was stepping down from the Commission. Chairman Torlakson then welcomed Mr. Keller's replacement, Mayor Bill Hill from Brentwood, Contra Costa County, as the new ABAG representative on the Commission.

b. Resolutions to Departing Commissioners. Chairman Torlakson announced that the Commissioners were given three draft resolutions of appreciation from the Commission to Supervisor Barber, Supervisor Johnson, and Mayor Keller. Chairman Torlakson asked for a motion to approve the resolutions. Commissioner Simas motioned and Commissioner Mello gave a second, and the resolutions were approved.

c. Next Meeting. The next Commission meeting will be held on Thursday, February 23, 1995 in Walnut Grove. Tentative items for the next agenda are: election of officers, consideration of GIS RFP, and proposal on recreation study from Department of Parks and Recreation.

d. Fiscal Year 1995-96 Governor's Budget. Chairman Torlakson mentioned that included in the Commissioner's mailing packet was a copy of the Governor's budget as it pertains to the Commission.

#### **4. Attorney General's Report.**

a. Conflict of Interest Forms. Richard Frank said Commissioners must file their Conflict of Interest papers before April 1, 1995. Commissioners who also serve as councilmembers, supervisors or any other appointed position also have the option to submit a consolidate report. Mr. Frank has extra copies of those forms if anyone needs one. Also, if any Commissioners have any questions regarding filling out any of the forms, please feel free to call him.

b. Legal Status of Commission Committee Meetings. Mr. Frank said that the law of this State holds that if two or fewer commissioners attend the committee meeting, the meeting is not deemed a public meeting. However, if three or more Commissioners are present, the meeting is to be noticed and held as a public meeting.

Mr. Frank also spoke with the Fair Political Practices Commission and the Office of Administrative Law regarding changes in the Conflict of Interest Code and if the Commission would have any changes. Ms. Aramburu said that there were no plans to make changes.

#### **5. Executive Director's Report.**

a. New Roster. Ms. Aramburu announced that she is circulating a new Commission Roster. If there are any corrections to the roster, please contact DPC staff.

b. Memo Regarding Club Fed Delta Agreement in Mailing Packet. Ms. Aramburu

stated that the memo was an informational memo summarizing the draft plan prepared by the State Board and now being reviewed by the public. She mentioned that the Environmental Document is also currently available. She commented that Commissioner Potter was heavily involved in the process and asked Commissioner Potter if he would like to make any additional comments; Commissioner Potter declined.

c. Meetings. Ms. Aramburu spoke to the Cities and County of San Joaquin Association on January 12, 1995. She was introduced by Commissioner Barber. Ms. Aramburu also attended two Habitat Conservation Program meetings for San Joaquin County COG. She also announced that the San Joaquin County COG has selected a consultant and is now proceeding with data collection.

Ms. Aramburu also attended the Delta regional subcommittee meeting of the San Francisco Estuary Project. The subcommittee will meet again in April and will be having a workshop on proposed projects and funding sources.

Ms. Aramburu said she met with new Commissioners Simas and Hill for orientations.

#### **6. Report from Budget and Finance Committee.**

Commissioner McCarty gave the Subcommittee report. The Budget and Finance Subcommittee met on January 11, 1995 for a mid-year review. The following items were discussed at that meeting.

a. Fines. The fine program authorized in the Delta Protection Act is resulting in some very limited funds for the Commission. About \$2,500 have been collected this fiscal year. The program for collecting the funds is being administered differently throughout the five Delta counties; most of the money is being collected in Sacramento County. The Subcommittee would suggest that the full Commission direct our Executive Director, and if necessary the Attorney General's office, spend additional time on a focused effort to meet with managers of the court system, the Sheriffs' departments, and others as necessary to pursue full collection of the 10% surcharge on Delta citations.

b. Status of Budget. We reviewed the half-year expenditures and can report that the budget is well within our expectations for the first half of the fiscal year.

c. Outstanding Funds. Margit reported that the funds remaining from our original \$250,000 loan, which total about \$57,000 must be expended by the end of the fiscal year, or will automatically be returned to the Environmental License Plate Fund.

A final decision about returning that money as a repayment against our original loan can probably be made after the February meeting when the Commission is scheduled to look at the two outstanding proposals for "consultant" work - the GIS bids and the proposal for additional recreation planning to be presented by the Department of Parks and Recreation.

d. Ducks Unlimited Grants Program. The Subcommittee reviewed the proposed grants program on today's agenda and voted to urge the Commission to support the program.

e. Other Fiscal Matters. Chairman Torlakson mentioned that the Executive Director is eligible for a salary increase. He said that Ms. Aramburu has been doing an excellent job and she should be awarded for her efforts. He stated that he and Commissioner McCarty are working on the paper-work. He asked if any Commissioners wanted a discussion agendaized. Commissioner Curry stated that she should be given the raise and to proceed with the arrangements. Commissioner Torlakson announced that they would continue the process.

## **7. Discussion of Levee Issues.**

a. Status of Letter to the Legislature. Ms. Aramburu announced that the letter is being reviewed by members of the Levee Subcommittee and will be mailed early next week.

b. Status of Delta Levees During Recent Storms. Ms. Aramburu mentioned that the Delta has some boils and weak areas in the levees, specifically Bouldin, Bradford, Tyler and Merritt Islands. Levee breaks occurred near Stone Lakes and on Fern Island.

c. Commissioner Comments. Commissioner McCarty said that the process for getting help for levee costs has been slow.

d. Public Comments. Dante Nomellini commented that the levee problems in the Delta have increased due to high tides. He also mentioned that FEMA finally approved some disaster claims from the 1986 floods. FEMA found no wrong-doing with regards to the 1986 floods, thus clearing the way to distribute funds.

## **8. Ducks Unlimited Grant Proposal.**

Ms. Aramburu stated Ducks Unlimited is requesting the Commission to become a partner in a grants program which will make grants to private landowners for enhancement of wildlife habitat. She also mentioned that Commissioner McCarty announced that the Budget and Finance Subcommittee supported this proposal.

Commissioner Mello requested that the conservation easements promote continued use of agriculture. Ms. Aramburu responded that Ducks Unlimited would most likely support his request. She also reminded Commissioner Mello that each grant must come before the Commission for approval.

Commissioner Calone stated his concern over the enthusiasm for creating more wetlands when no entity has supported maintaining the existing wetlands.

Commissioner McCarty stated that with limited funds in the Delta fund, the Delta Protection Commission will not be purchasing many conservation easements. The intent

behind supporting the grant proposal is wetland restoration and maintenance.

Commissioner Potter said the language does not clarify who is responsible for operation and maintenance of the wetlands. He stressed that clarification is necessary.

Vice Chair Fargo moved to adopt the grant proposal in accordance with the comments just provided. Commissioner McCarty gave a second to the motion. All Commissioners approved, with the exception of Commissioner Ferreira.

#### **9. Continued Public Hearing on Draft Background Report on Marine Patrol, Boater Education, and Safety Programs.**

Ms. Aramburu said that the public hearing was opened at the last meeting and one speaker made comments. In order to ensure that there had been adequate opportunity for the public to comment on the background report, the Commission re-opened the public hearing. Ms. Aramburu announced that comments are welcomed on the Report. She requested that any comments on only the Findings, Policies, and Recommendations wait until the public hearing on the Revised Draft Plan.

Chairman Torlakson commented that the Marine Patrol Report contains some common sense recommendations to the problems with boating safety in the Delta. He also mentioned that AB 3379 was one vote short of getting passed by the Senate Appropriations Committee. Chairman Torlakson explained that AB 3379 received some strong opposition at the last minute from the California Boaters Association and boaters from Southern California.

Commissioner Curry asked Ms. Aramburu if staff had received comments from Dept. of Boating and Waterways staff regarding the report. She answered that staff had received those comments and that they would be incorporated into the final plan.

Dr. Ernst then commented that Chairman Torlakson was incorrect, and that the opposition to AB 3369 came from Northern California as well. Dr. Ernst stated that the President of the California Boaters Association is from Northern California. He also said that the Association plans to oppose the bill again.

Chairman Torlakson mentioned that AB 3379 has been introduced again by Assembly Rainey (last year's author as well). The bill number is AB 122.

Chairman Torlakson closed the public hearing on Marine Patrol.

#### **10. Public Hearing on Revised Draft Plan.**

Ms. Aramburu stated that in the Commission mailing packet, they received corrected language for P-3, page 13, a large map, and letters submitted on the Revised Draft Plan from: Delta Wetlands; City of Stockton; Delta Diablo Sanitation District; Wheelabrator Clean Water

Systems; Bio Gro Division; Bob Henn, of Henn, Etzel, and Weiss representing the Ironhouse Sanitary District; Danny L. Mercer, Consulting Environmental Chemist; and Peggy Keranen, Deputy Director, San Joaquin County Community Development Department.

Ms. Aramburu also mentioned that each Commissioner was mailed a letter and report from Robert Baker of Tri-TAC. She also stated that the Commissioners received at the meeting written comments from: Commissioner McCarty; Commissioner Salmon; John Amodio, Executive Office of BDOC; Tim Wilson; William De Paoli of the Asparagus Commission; John Gamper of the California Farm Bureau Federation; James Kelly, WateReuse Association; Harry Gibson, City of West Sacramento; and, as required in the legislation, a letter from Lee Grisson, Director of the Office of Planning and Research.

Ms. Aramburu stated that she prepared a memo, dated 1/19/95 which summarizes the comments the Commission received, in order, by element, with the page of the revised draft plan noted. Each comment has a number, so the Commission can keep track of the comments. Ms. Aramburu suggested that she go through the comments received to date; briefly give her responses to the comments; and then allow the Commissioners to ask questions. Commissioner discussion on the revised draft would then be moved to the end of the meeting after public comments.

The Commission agreed with her suggestions, and after Ms. Aramburu's review of her responses to the comments, the public hearing would be opened. She reminded everyone that no voted would take place at this meeting.

a. Executive Director's Response to Comments Received. Comments were received regarding the language of the Introduction on pages one and two. Ms. Aramburu suggested to leave the text unchanged.

**Environment:** P-1, P-2, and P-3 should be left unchanged despite comments. She did mention that a finding could be added stating that Delta channel islands, berms, and levees serve as habitat for several species of burrowing species.

The text of the Land Use section could be edited to clarify if "Delta" means legal Delta or Primary Zone and to identify cities with portions of city limits in the Primary Zone. Otherwise, the text should remain unchanged. P-8 will also be edited to clarify the broad language "Habitat mitigation banks may not include agriculture." She then read some language for R-2 and R-3 suggested from commentators and left the decision to change the existing language up to the Commission.

**Agriculture:** F-11, P-1, P-2, P-2, P-4, P-5, and P-9, should be left unchanged despite the comments. P-7, regarding the nature of conservation easements, she left to the Commission to decide whether the Farm Bureau's suggestions should be incorporated into the policy language. She stated that the comment received from Tim Wilson regarding P-10 had already been discussed by the Commission; the Commission decided to leave the

paragraph in place.

**Water:** F-2, F-18, and R-1 should remain unchanged. Ms. Aramburu agreed to indicate the amount or percentage of water available for "other" use in F-5.

**Recreation and Access:** P-3, and R-5 should remain unchanged.

**Levees:** Pages 42 and 44 (the goal statement) of the Text should remain unchanged. P-1, P-2, P-3, and R-12 should also remain unchanged. Ms. Aramburu then added generally that the Commission could add a finding which describes low and high water conditions.

**Marine Patrol:** Ms. Aramburu asked for the Commission's input regarding P-6 and if the policy should contain qualification "if adequate funding is available." Ms. Aramburu agreed to edit P-7 in that environmental pollution extends beyond local government and should be the responsibility of a state agency. Ms. Aramburu also added that she will include language to clarify F-5 regarding West Sacramento is not part of the Primary Zone.

**Implementation:** Ms. Aramburu mentioned that the Commission cannot change the Map of the Legal Delta; only the Legislature can. She also noted that Delta Protection Act exempts local governments from CEQA review which is a cost and time saving advantage.

**Other Comments:** A recommendation could be added to the Land Use section which closely follows the language in the Act: "Water reservoirs that are consistent with other uses in the Delta should be permitted."

**Utilities and Infrastructure:** P-1 should remain unchanged. The remainder of the comments focused on P-3, the most contested policy regarding sewage treatment facilities locating in the Primary Zone of the Delta.

Ms. Aramburu stated that this policy has found no consensus among commentors. She mentioned that staff has reservations about the language submitted for Commission review. A key aspect of adoption of the policies of the Plan is that there be adequate information for the Commission to act and to determine that the actions are appropriate and supportable. She stated that if the Commission feels prepared to proceed with adoption of a policy, then she suggested that the Commission review the comments submitted and hear the public comments and allow staff to prepare revised language.

Ms. Aramburu said that some issues have been raised that are important regarding this policy: 1) The Commission must have adequate information in the record to support adoption of a policy and 2) The easiest policy to support would be based on the characteristics of the resources and their use in specific areas and for specific uses. She noted that it is more difficult to support a policy based on location of origin of the materials.

Ms. Aramburu said that staff can prepare a supplemental "Chapter" outlining the

existing local, state, and federal regulations, existing conditions, proposed conditions, characteristics of the materials, and any special analysis the Commission feels it needs to make a decision.

b. Commissioner Comments on Executive Director's Responses to Comments.

Vice Chair Fargo asked Ms. Aramburu to explain the difference and importance of where "should" and "shall" are used in the report. Ms. Aramburu responded that use of "should" means the recommendations are not mandatory while "shall" connotes that it is mandatory. Policies are mandatory for local governments.

Commissioner Mello asked if the reference to conservation easements throughout the Plan refers to both wildlife and agricultural easements. Ms. Aramburu responded that they are not clearly defined. The nature of the easement is bargained for between the buyer and seller; when purchasing an easement the buyer is merely purchasing a property right.

c. Public Hearing Opened for Public Comments.

The speakers who read from written statements are indicated below after their name and title. Copies of their written statements can be obtained from staff. Most of the public comments concern P-3 from the Utilities and Infrastructure element of the Plan regarding the location of sewage treatment plants and use of recycled wastewater on farmland in the Delta.

Chairman Torlakson asked that speakers wishing to comment on P-3 hold their comments until the other elements of the Plan are discussed.

1. John Gamper, California Farm Bureau Federation: (written statement) Suggested deleting the last two lines of R-2, Land Use, page 22. He said that the Legislature should be the only body of government dealing with this issue and the Commission should not be involved here. Mr. Gamper also suggested that the third paragraph on page 16 of the Land Use be deleted.

Mr. Gamper said that Agriculture, P-7 should only focus on agricultural easements, not other types of conservation easements. He stated that taking agricultural lands out of production for easements other than for agricultural easements should not be suggested in the Agriculture element of the Plan; it is probably more appropriate in other elements of the Plan.

Mr. Gamper stressed that levee protection should be mandated with regard to P-1 of the Levee element on page 47.

Regarding Utilities and Infrastructure P-3, Mr. Gamper said that the Farm Bureau submitted draft language for a policy to the Commission. He also expressed his concern that the Commission has insufficient information to establish a policy about this issue.



2. Alex Hildebrand, South Delta Water Agency, President of Reclamation District 2075, and San Joaquin County Farm Bureau: (written statement) He supports the comments made by the California Farm Bureau Federation (CFBF). He reiterated that two key provisions which were essential to his and the California Farm Bureau's support of passage of the Delta Protection Act are not contained in the Plan. Those provisions are 1) that the Plan will not deny landowner's right to the continued agricultural use of their land, and 2) recommendations contained in the Plan shall not be achieved through the exercise of the power of eminent domain unless requested by the landowner.

Mr. Hildebrand also agrees with the CFBF in that the Commission should not insert itself into the public trust boundary disputes between the State Lands Commission and private landowners. He also supports CFBF's proposed revision stating that "Delta Levee maintenance and rehabilitation shall be given priority over other uses of the levee areas."

Mr. Hildebrand also commented on P-3 of the Utilities and Infrastructure element. He stated that salinity in many of the Delta's channel reaches is already far above historical levels due to decreased Delta inflow and outflow, and to the substantially increased salinity of the San Joaquin River inflow resulting from westside drainage, and from increased urban sewage discharges. The salinity of urban sewage is typically too high for irrigation of many crops without yield reduction. This is particularly true with the Delta's sub-irrigation needs and high water tables. This salt load is not removed by any sewage treatment short of reverse-osmosis. Sewage treatment facilities and sludge disposal in the Primary Zone are unacceptable.

3. Ross Sergeant, Chief of Staff, Senator Patrick Johnston: Mr. Sergeant conveyed Senator Johnston's strong appreciation for the work the Commission has accomplished over the long months. He also commended Ms. Aramburu for her hard work on this Plan. Mr. Sergeant commented that Mr. Gamper's comments regarding R-2 from the Land Use element are correct.

As regards, P-3 of the Utilities and Infrastructure element, Senator Johnston approves of Commissioner McCarty's language. When the Delta Protection Act was created, ample room was given to cities located in the Secondary Zone to develop or construct sewage treatment plants. Mr. Sergeant said that the Primary Zone was carved out to protect agriculture and wildlife habitat. Allowing the development of sewage treatment plants does not promote that type of protection. Mr. Sergeant also agrees with Ms. Aramburu that the easiest policy for the Commission to adopt is one that protects a specific resource. The Commission should support Delta farmers on this issue.

4. Dennis Pisila, Contra Costa Water District: (written statement) Mr. Pisila commended the Commission on their work. He also recommended additional wording to the Recreation and Access Element Policies P-3 and P-8. The additional language to P-3 recommends that no marinas or marina expansions be permitted within .9 miles of any drinking water intake located in an open waterway. The additional language to P-8

recommends that any activities that result in toxic discharges at marinas shall be prohibited.

5. Bob Pacini, Manager, Winter Island; Reclamation District 2122: Mr. Pacini expressed concern that Winter Island has been forgotten. He said that the five miles of levees and rip rap on Winter Island are being damaged by recreational activities in the Stockton Deep Water Channel. He requested that a speed limit be posted and enforced on the Deep Water Channel near his island.

He mentioned that Winter Island is comprised of 80% wetlands (600 acres) which the landowners are having a difficulty maintaining privately due to the expense. He asked the Commission for help in recognizing the island as a non-profit wetlands site in order to obtain some support from California Waterfowl Association or obtaining a conservation easement. He stressed that the island receives no income and is used only for hunting purposes. Chairman Torlakson said that he will look into posting and enforcing a speed limit near Winter Island on behalf of his district. Chairman Torlakson also asked that staff look into whether there are any resources to assist Winter Island in finding funding or obtaining a conservation easement.

6. Dante John Nomellini, Co-Counsel for the Central Delta Water Agency: Mr. Nomellini said he supports the California Farm Bureau's comments. He also opposes Bay Delta Oversight Council's (BDOC) recommendations; BDOC is trying to seek language that advocates a peripheral canal and they support the use of biosolids on Delta agricultural lands.

Mr. Nomellini also supports Commissioner McCarty's Utilities P-3 language which represents a compromise between the Commission and Ironhouse Sanitation District; Ironhouse Sanitary District will eventually acquire all of Jersey Island.

Mr. Nomellini said the sewage treatment plant issue is foremostly a planning issue; restricting uses automatically devalues land and sets the Delta up for sewage disposal sites because the land is cheap and below sea-level. He mentioned that many sewage treatment plant projects have been proposed in the Delta; Roberts Island, City of Lathrop; Mountain House; City of Stockton, Roberts Island; and Central California Regional Water Recycling Association, Bay Area Counties. The Bay Area counties project needs approximately 100,000 acres for their sewage plant project. Mr. Nomellini feels strongly that in light of these proposed projects, the door to sewage disposal in the Delta needs to be closed.

Mr. Nomellini then explained water table graphs which displayed that in wet years, water quality standards are not relaxed as they are in dry years. He then said that wastewater has an extremely high Total Dissolved Solvents (TDS) level year round. The Delta can not survive with such a high TDS level year round because of its high water table, and thus can not flush the salinity from the wastewater out. Furthermore, the Central Delta can not afford to artificially leach their agricultural lands. Sludge also contains heavy metals along with a high salinity content; metals enter the soils, water, and groundwater and eventually the food chain.

Mr. Nomellini said by allowing wastewater treatment plants in the Delta you are putting the food supply at risk. Plus, marketing food from the Delta will also be difficult. Another issue to consider is that farmers who use biosolids may have problems with liability for contamination. He also questioned if farmers would have to disclose to lenders or buyers that they are using effluent to fertilize their crops.

7. Rogene Reynolds, Land owner on Roberts Island: Ms. Reynolds complimented the Commission on their work. She strongly opposes the development of sewage treatment plants in the Delta. She said the project proposed by the Central California Regional Water Recycling Association will pump wastewater from the Bay Area counties into the South San Joaquin County farmlands which will eventually drain into the San Joaquin River. She mentioned some cases pending where dairy cows and aquifers (Miller Brewing Company is the aggrieved party in this case) have been affected by the use of effluent on agricultural lands.

Ms. Reynolds said that regulatory agencies, like the EPA, are no help to landowners who oppose projects like these due to the trend of de-regulation in this country. She questioned whether the Commission had enough scientific information regarding the affects of recycled water on farmland in order to make a decision..

Chairman Torlakson moved for a five minute break.

Ms. Aramburu, before the Public Hearing re-opened, mentioned to the Commission that during the break she passed out the letter from the State Office of Planning and Research which she received by fax prior to the meeting. The letter is not included in the list of comments received.

8. Cheryl Creson, Sacramento Regional County Sanitation District (SRCSD): Ms. Creson opposes a ban on the use of biosolids in the Delta and the development of sewage treatment plants in the Delta. SRCSD has both recycled water and reuse programs ongoing in the Sacramento Valley, but not in the Delta. She feels that this is an agricultural issue, not a land use issue. She also said that before the Commission makes any decision, more scientific information should be provided. She mentioned that biosolids/recycled water is used widely in the U.S.A.. She believes that such use benefits the water supply and the environment. Ms. Creson also stated the use of biosolids requires extensive regulation, thus the fear of contamination is unfounded. She mentioned that a wide variety of educational materials on this subject exist and offered her assistance to the Commission in gathering such information. She concluded with saying that the public perception regarding the use of biosolids is poor, but it would not be if proper public education about the practice existed.

9. Bob Beebe, resident and manager of a sewer and water district in Livermore Valley: Mr. Beebe is opposed to the ban on sewage treatment plants in the Delta. He is fearful that a ban will set back his district's progress in adopting a reuse/recycling program. He commented that the EPA does not enforce regulations on projects such as these, the State

does. He also stated that Miller Brewing company initiated the law suit because they want to relocate their plant due to high labor costs and are looking for inverse condemnation to compensate the costs of a relocation. Mr. Beebe said that despite the claims that using biosolids is unsafe, Los Angeles and San Diego counties are using biosolids.

10. Jerry Robinson, Stockton, Delta farmer: Mr. Robinson is opposed to allowing sewage treatment plants to locate in the Delta. He commented that he does not understand why cities are not using recycled water if it is such a good idea.

11. Loren Ohm, Roberts Union Farm Center Chairman: Mr. Ohm agrees with Mr. Nomellini's comments. He disagrees with Ms. Creson, and believes that the use of biosolids is a land use issue.

12. Ralph Grumauer, Land owner on Union Island: Mr. Grumauer said that the local planning commission's have failed by approving projects such as Mountain House even though those projects have no means to dispose of sewage.

13. John Bross, Land owner on Roberts Island: Mr. Bross is against allowing sewage treatment plants to locate in the Delta. He has been an appraiser for 35 years and knows that the best use of Roberts Island is agriculture. If high interest rates are compounded with the existence of sewage treatment plants, the market for Roberts Island will become further depressed. He suggests that biosolids should not be used on agricultural lands until its' downsides are scientifically proven.

14. William De Paoli, Manager, California Asparagus Commission: Mr. De Paoli commented that export markets are very concerned about the quality of produce purchased. Most asparagus grown in California is from the Delta; export markets will not purchase asparagus grown from lands irrigated with recycled water or fertilized with biosolids. He supports the policy that sewage sludge not be used on food crops.

15. Judi Burrick, Land owner on Fabian Tract: Ms. Burrick is concerned that the Delta is becoming a sewage dumping plant. She read a letter she received from Senator Johnston stating his opposition to allowing sewage treatment plants to locate in the Delta. Ms. Burrick would like the Plan to include a very strong anti-sewage treatment plant policy.

16. Bob Burrick, Land owner on Fabian Tract: Mr. Burrick opposes the location of sewer treatment plants in the Delta. He mentioned that H.A. Heinz Corporation includes in their contract a provision prohibiting the use of effluent on tomato crops. He also said that the largest receiver in the Central Valley, Jacobs, Malcolm and Burt, will not purchase sludge-fed products. These corporations won't purchase products treated with sludge/effluent because they are fearful of liability for contaminated products. Plus, the San Joaquin Hay Growers Association publicly announced their opposition to the use of sewage effluent to irrigate or treat alfalfa fields. Mr. Burrick submitted letters for the record from the San Joaquin Hay Grower's Association, H.A. Heinz Corp. and Jacobs, Malcolm and Burt.

17. Irvin Muller, Stockton resident: Mr. Muller commented that he agrees with those speakers who oppose the placement of sewage treatment facilities in the Delta.

18. Jane Biswick, Turlock resident and Coordinator for Sludge Education: Ms. Biswick opposes using sludge on farmlands. Her program educates farmers about sludge. She mentioned that the downsides of using sludge on crop lands have not been adequately publicized. She said that there is a lack of research on the health issues related to the use of sludge. Ms. Biswick also believes that the transfer of liability of contamination to the farmer is a grave problem that has been downplayed. She suggested that an epidemiological study be conducted before using sludge on crops is practiced by farmers. She mentioned a case-study in New York which suggests that dumping wastewater into the ocean is a much safer practice than dumping it on agricultural lands.

19. Linda Novick, Technical Services Coordinator for BioGro: Ms. Novick read from her letter to the Commission dated January 18, 1995. She explained that biosolids are applied to crop lands at abnormal rates. Biosolids have been applied in 27 states over the past 15 years. She mentioned that BioGro is liable for the rates they apply biosolids to the land. She stated that biosolids is an adequate farming method and an accepted practice nation-wide. She said that BioGro supports Commissioner McCarty's change in P-3 with the specific provision that it not include those people who use biosolids at agronomic rates and comply with current regulations. She stated that banning the use of biosolids in the Delta would perpetuate the myth that it is not an adequate farming practice and farmers should be given the option to use biosolids for fertilization.

Commissioner Calone asked if biosolids have been applied to Delta farmlands or lands 15-20 feet below sea level. Ms. Novick said that no projects exist in the Delta, but biosolids have been applied to the Chesapeake Bay area on the East Coast.

Commissioner Brodderick asked if there is a separate quality assurance given to the product BioGro applies. Ms. Novick responded that the material leaving the wastewater treatment plant is tested by those facilities. BioGro does not take responsibility on those material tests conducted by the wastewater treatment facilities. BioGro does, however, take responsibility for how the biosolids are applied to the farmlands.

20. Reed Smith, Agricultural Researcher from Oakdale: Mr. Smith is against the use of biosolids on farmlands. He feels the EPA and Regional Water Quality Control Board regulations are inadequate and that both agencies have done nothing to combat low water quality standards in the Delta. He is fearful that if the use of sludge is allowed, it will not be adequately regulated by the State or the EPA.

21. Diane Bradford, resident of Byron: Ms. Bradford lives adjacent to a wastewater facility which expands over 100,000 acres. She feels that sludge is not recycled properly. She stated that the EPA Risk Assessment on the recycling of sludge was very general and the EPA 503 Regulations are not being followed. She mentioned that the 503 Regulations are

less stringent than any guidelines used in other countries who undergo similar processes. She commented that her children have upper respiratory problems, probably because they are allergic to sludge. She told the Commission that more correct information is needed on the use of biosolids in order for them to make a decision allowing the development of sewage treatment plants in the Delta.

22. Bob Henn, representing Ironhouse Sanitation District: Mr. Henn requests that the Commission revise P-3 to reflect Commissioner McCarty's suggestions but also add language to allow Ironhouse to purchase the remaining 20% of Jersey Island thereby exempting the entire Island from the policy. Mr. Henn also mentioned that Commissioner Salmon supports their revised language of P-3. Commissioner Mello asked who owns the remaining 20% of Jersey Island. Mr. Henn responded that the property is owned by 7 different individuals.

23. Bill Reynolds, Delta Banker: Mr. Reynolds stated that the application of sludge to farmland will affect crop rotation patterns and potentially reduce crop yields which could erode the slim profit margins and the availability of credit for farmers.

24. Thomas Zuckerman, Co-counsel to Central Delta Water Agency: Mr. Zuckerman stated that because the Delta provides drinking water to two-thirds of the State it should be the last place in the State to consider treating sewage. He mentioned that the Delta has been chosen because it is a less expensive means to treat sewage to a lesser degree. Mr. Zuckerman mentioned an article in Western Water regarding a treatment plant in San Diego which tertiary treats its wastewater plus repurifies it before piping it elsewhere. Mr. Zuckerman stated that the recycling projects proposed for the Delta want to treat wastewater to a lesser degree by using the land; it is a method employed to spend less money.

## 11. Commissioner Comments.

Commissioner Mello: Environment, F-7: Commissioner Mello thought the finding was to reflect eroded Delta channel islands, berms and levees.

Land Use, R-2: Would like this recommendation deleted.

Agriculture, F-12: Would like the words "rise and fall" to be stricken and the word "change" added to the finding.

Recreation, F-6: Requested that the second sentence add "increasing costs of maintenance."

Levees, Introduction: 1) Requested that the word "lost" be deleted and replaced with the word "used" in the second paragraph. 2) F-9: Requested that "no federal or State funds are available to share routine maintenance cost of most Project Levees with the local agency responsible for that maintenance be added to the finding. 3) F-14: Requested that "Although no Delta island has flooded as the result of seismic activity" be added to the beginning of the

last sentence. 4) F-15: Requested that "earthquake" be stricken. 5) P-1: Fourth line from bottom strike "should" and add "shall." 6) R-2: Last sentence add "mineral" in front of leases. 6) Retain the first sentence which restates Agriculture, P-9.

Commissioner McCarty: He concurs with Commissioner McCarty and the California Farm Bureau regarding Levees, P-2. He also feels the Delta is too unique and deserves the protection that his revised language for Utilities, P-3 will provide. He commented that he is not opposed to the use of Biosolids but believes it is inappropriate for the Delta.

Chairman Torlakson and Commissioners Simas and Hill concur with Commissioner McCarty.

Commissioner Brodderick requested that staff prepare a review on all the public and written testimony provided at the public hearing.

Commissioner Potter: DWR submitted comments on Utilities, P-3 which are not contradictory to Commissioner McCarty's revision. Commissioner Potter suggested, as did DWR staff, that the Commission re-open discussion on this issue in a few years after Ironhouse has operated for some time in order to review its' impacts on the Delta. Commissioner Potter suggested that such sewage treatment projects are probably more appropriate in the West Delta rather than other areas in the Delta.

Commissioner Potter hi-lighted some of DWR's general comments on the Plan: 1) A need exists to seek an optimum levee design and 2) The federal government needs to be more involved with Delta issues, especially as regards levee maintenance and funding issues.

Ms. Aramburu asked if the Commission wants to meet again to discuss the issue on Utilities, P-3.

Commissioner Calone commented that the Commission has yet to take a position on maintaining existing wetlands. Chairman Torlakson suggested that this is an area which needs some attention and suggested that staff begin looking into the project on Winter Island.

Commissioner McCarty referred to page 17 of the Plan to correct a misstatement regarding Medford Island; only a portion of Medford Island is used as a mitigation site.

Commissioner Potter stated that he agrees with Alex Hildebrand's statements made early in the public hearing.

Commissioner McGowan asked for an inventory of all the projects using biosolids in the Delta. Ms. Aramburu responded that no projects exist in the Delta.

Vice Chair Fargo asked that staff prepare a memo identifying disagreements with comments and recommendations.

Commissioner McCarty suggested that Agriculture, P-1 needs to add the word "world" to the policy.

Commissioner McGowan asked Mr. Frank if he needed more information to make a decision on whether Commissioner McCarty's policy comports to legal standards. Mr. Frank responded that his office will be looking at Commissioner McCarty's language and will work with staff on it.

**12. The meeting adjourned at 10:40 p.m.**